

ASSEMBLY BILL

No. 1777

**Introduced by Committee on Business and Professions (Correa
(Chair), Corbett, Koretz, Leno, Nation, Vargas, and Yee)**

March 18, 2003

An act to amend Sections 2475.3, 2481, 2483, 2484, 2878.5, 3732, 3750, 3750.6, 3760, 3761, 3775, 3775.2, 3777, and 4521 of, to add Sections 3775.6 and 3778 to, and to repeal Sections 3714, 3721, 3733, 3736.5, 3737, and 3751.1 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1777, as introduced, Committee on Business and Professions. Health care practitioners.

(1) Existing law creates the Board of Podiatric Medicine under the Medical Board of California. Under existing law, the board is required to approve podiatric residency programs, and specifies requirements in this regard. Existing law requires applicants to provide an official transcript or other evidence to the board as evidence that he or she has completed certain educational requirements, and requires an applicant to complete 4 academic years in an approved school or college.

This bill would revise the requirements for the education and training of podiatrists. The bill would require an applicant to practice podiatry to provide the transcripts directly to the board, and would specify that the applicant may complete 32 months of actual instruction in an approved school or college instead of 4 years.

(2) Existing law, the Respiratory Care Practice Act, regulates the practice of respiratory care. Existing law creates the Respiratory Care

Board of California and provides for notice requirements for the board's meetings. This bill would delete the notice requirements.

(3) Existing law provides for license and examination requirements after payment of specified fees for respiratory care practitioners.

This bill would revise the education, training, and license requirements for respiratory care practitioners. The bill would authorize a licensee to be placed in a retired status if certain requirements are met. The bill would authorize the board to contract with a collection service for the purpose of collecting outstanding fees, fines, or cost recovery amounts from applicants or licensees.

(4) The bill would delete obsolete provisions relating to healing arts licensees.

(5) Because a violation of the bill's provisions in the Respiratory Care Practice Act would be a misdemeanor, the bill imposes a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2475.3 of the Business and Professions
2 Code is amended to read:

3 2475.3. (a) The board shall approve podiatric residency
4 programs, as defined in Section 2475.2, in the field of podiatric
5 medicine, for persons who are applicants for or have been issued
6 a certificate to the practice of podiatric medicine pursuant to this
7 article.

8 ~~On and after January 1, 1998, the board shall approve only those~~
9 ~~podiatric residencies at the entry level that are approved by the~~
10 ~~Council on Podiatric Medical Education or other organization~~
11 ~~designated by the board, provided that the organization requires~~
12 ~~entry-level podiatric residencies to include podiatric surgical~~
13 ~~training.~~

(b) The board may only approve a podiatric residency that it determines meets all of the following requirements:

(1) Reasonably conforms with the Accreditation Council for Graduate Medical Education's institutional requirements applicable to all medical residency programs.

(2) Is approved by the Council on Podiatric Medical Education.

(3) Complies with the requirements of this state.

SEC. 2. Section 2481 of the Business and Professions Code is amended to read:

2481. Each applicant who commenced professional instruction in podiatric medicine after September 1, 1959, shall ~~present~~ have presented an official transcript or other official evidence directly to the board that he or she has completed two years of preprofessional postsecondary education, or its equivalent, including the subjects of chemistry, biology or other biological science, and physics or mathematics, before completing the resident course of professional instruction.

SEC. 3. Section 2483 of the Business and Professions Code is amended to read:

2483. (a) Each applicant for a certificate to practice podiatric medicine shall ~~show by~~ have presented an official transcript or other official evidence satisfactory to the board that is submitted directly to the board that he or she has successfully completed a medical curriculum extending over a period of at least four academic years, or 32 months of actual instruction, in a college or school of podiatric medicine approved by the board. The total number of hours of all courses shall consist of a minimum of 4,000 hours.

The board, by regulation, shall adopt standards for determining equivalent training authorized by this section.

(b) The curriculum for all applicants shall provide for adequate instruction related to podiatric medicine in the following:

Alcoholism and other chemical substance detection

Local anesthesia

Anatomy, including embryology, histology, and neuroanatomy

~~Bacteriology~~

Behavioral science

Biochemistry

Biomechanics-foot and ankle

- 1 Child abuse detection
- 2 Dermatology
- 3 ~~Didactic podiatry~~
- 4 Geriatric medicine
- 5 Human sexuality
- 6 ~~Pediatrics~~
- 7 *Infectious diseases*
- 8 *Medical ethics*
- 9 Neurology
- 10 *Orthopedic Surgery*
- 11 Pathology, microbiology, and immunology
- 12 *Pediatrics*
- 13 Pharmacology, including materia medica and toxicology
- 14 Physical and laboratory diagnosis
- 15 Physical medicine
- 16 Physiology
- 17 Podiatric medicine
- 18 Podiatric surgery
- 19 Preventive medicine, including nutrition
- 20 Psychiatric problem detection
- 21 Radiology and radiation safety
- 22 Spousal or partner abuse detection
- 23 ~~Orthopedic surgery~~
- 24 Therapeutics
- 25 Women's health
- 26 ~~(c) This section shall become operative on January 1, 2000.~~
- 27 SEC. 4. Section 2484 of the Business and Professions Code
- 28 is amended to read:
- 29 2484. In addition to any other requirements of this chapter,
- 30 before a certificate to practice podiatric medicine may be issued,
- 31 each applicant shall show by evidence satisfactory to the board *that*
- 32 *is submitted directly to the board by the sponsoring institution* that
- 33 he or she has satisfactorily completed one year of approved
- 34 postgraduate podiatric medical and podiatric surgical training in
- 35 a ~~general acute care hospital~~ *podiatric residency. This shall*
- 36 *include training in the performance of patient history and physical*
- 37 *examinations, and provide entry-level clinical training in both*
- 38 *podiatric medicine and podiatric surgery.*
- 39 SEC. 5. Section 2878.5 of the Business and Professions Code
- 40 is amended to read:

1 2878.5. In addition to other acts constituting unprofessional
2 conduct within the meaning of this chapter, it is unprofessional
3 conduct for a person licensed under this chapter to do any of the
4 following:

5 (a) Obtain or possess in violation of law, or prescribe, or except
6 as directed by a licensed physician and surgeon, dentist or
7 podiatrist administer to himself or herself or furnish or administer
8 to another, any controlled substance as defined in Division 10 of
9 the Health and Safety Code, or any dangerous drug as defined in
10 ~~Article 8 (commencing with Section 4210) of Chapter 9 of~~
11 ~~Division 2 of this code Section 4022.~~

12 (b) Use any controlled substance as defined in Division 10 of
13 the Health and Safety Code, or any dangerous drug as defined in
14 ~~Article 8 (commencing with Section 4210) of Chapter 9 of~~
15 ~~Division 2 of this code Section 4022~~, or alcoholic beverages, to an
16 extent or in a manner dangerous or injurious to himself or herself,
17 any other person, or the public, or to the extent that such use
18 impairs his or her ability to conduct with safety to the public the
19 practice authorized by his or her license.

20 (c) Be convicted of a criminal offense involving possession of
21 any narcotic or dangerous drug, or the prescription, consumption,
22 or self-administration of any of the substances described in
23 subdivisions (a) and (b) of this section, in which event the record
24 of the conviction is conclusive evidence thereof.

25 (d) Be committed or confined by a court of competent
26 jurisdiction for intemperate use of or addiction to the use of any of
27 the substances described in subdivisions (a) and (b) of this section,
28 in which event the court order of commitment or confinement is
29 prima facie evidence of such commitment or confinement.

30 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
31 unintelligible entries in any hospital, patient, or other record
32 pertaining to narcotics or dangerous drugs as specified in
33 subdivision (b).

34 SEC. 6. Section 3714 of the Business and Professions Code
35 is repealed.

36 ~~3714. It shall be the duty of the board to examine applicants~~
37 ~~for licensure as provided by this chapter, at the places and at the~~
38 ~~times designated by the board in its discretion.~~

39 SEC. 7. Section 3721 of the Business and Professions Code
40 is repealed.

~~3721. Notice of each regular or special meeting shall be sent to all board members 15 days prior to the meeting. In addition, notice of each meeting of the board shall be published in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

SEC. 8. Section 3732 of the Business and Professions Code is amended to read:

3732. (a) The board shall investigate ~~each and every~~ *an* applicant for a license, before a license is issued, in order to determine whether or not the applicant has ~~in fact~~ the qualifications required by this chapter.

(b) ~~The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761.~~

SEC. 9. Section 3733 of the Business and Professions Code is repealed.

~~3733. (a) Every applicant for a license under this chapter shall, at the time of application, be a person over 18 years of age, have successfully completed courses of training equivalent to the minimum standard established in this chapter for approval by the board, and not have committed acts or crimes constituting grounds for denial of licensure.~~

~~(b) The board may order the denial of an application, or the issuance of a license with terms and conditions, for any of the causes specified in this chapter for suspension or revocation of a license, including, but not limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761.~~

SEC. 10. Section 3736.5 of the Business and Professions Code is repealed.

~~3736.5. The board's examination contractor shall provide to the board all examination pass-fail statistics for each approved respiratory therapy school.~~

SEC. 11. Section 3737 of the Business and Professions Code is repealed.

~~3737. Every applicant who is not otherwise disqualified as provided in this chapter and who receives a passing grade established by the board on the examination shall be granted a license.~~

SEC. 12. Section 3750 of the Business and Professions Code is amended to read:

3750. The board may order the *denial*, suspension, or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

- (a) Advertising in violation of Section 651 or Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Knowingly employing unlicensed persons who present themselves as licensed respiratory care practitioners.
- (d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.
- (e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.
- (f) Negligence in his or her practice as a respiratory care practitioner.
- (g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).
- (h) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.
- (i) The aiding or abetting of any person to engage in the unlawful practice of respiratory care.
- (j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.
- (k) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any patient, hospital, or other record.
- (l) Changing the prescription of a physician and surgeon, or falsifying verbal or written orders for treatment or a diagnostic

1 regime received, whether or not that action resulted in actual
2 patient harm.

3 (m) Denial, suspension, or revocation of any license to practice
4 by another agency, state, or territory of the United States for any
5 act or omission that would constitute grounds for the denial,
6 suspension, or revocation of a license in this state.

7 (n) Except for good cause, the knowing failure to protect
8 patients by failing to follow infection control guidelines of the
9 board, thereby risking transmission of blood-borne infectious
10 diseases from licensee to patient, from patient to patient, and from
11 patient to licensee. In administering this subdivision, the board
12 shall consider referencing the standards, regulations, and
13 guidelines of the State Department of Health Services developed
14 pursuant to Section 1250.11 of the Health and Safety Code and the
15 standards, regulations, and guidelines pursuant to the California
16 Occupational Safety and Health Act of 1973 (Part 1 (commencing
17 with Section 6300) of Division 5 of the Labor Code) for preventing
18 the transmission of HIV, hepatitis B, and other blood-borne
19 pathogens in health care settings. As necessary, the board shall
20 consult with the California Medical Board, the Board of Podiatric
21 Medicine, the Board of Dental Examiners, the Board of Registered
22 Nursing, and the Board of Vocational Nursing and Psychiatric
23 Technicians, to encourage appropriate consistency in the
24 implementation of this subdivision.

25 The board shall seek to ensure that licensees are informed of the
26 responsibility of licensees and others to follow infection control
27 guidelines, and of the most recent scientifically recognized
28 safeguards for minimizing the risk of transmission of blood-borne
29 infectious diseases.

30 (o) Incompetence in his or her practice as a respiratory care
31 practitioner.

32 (p) A pattern of substandard care.

33 SEC. 13. Section 3750.6 of the Business and Professions
34 Code is amended to read:

35 3750.6. Upon request, every holder of a pocket license shall
36 produce for inspection the original pocket license issued by the
37 ~~examining committee~~ board. A facsimile of the license is not
38 sufficient for that purpose.

39 Upon request, every applicant issued a work permit shall
40 produce for inspection the original permit issued by the ~~examining~~

1 ~~committee board. A facsimile of the work permit is not sufficient~~
2 ~~for that purpose. Failure to produce an original work permit shall~~
3 ~~constitute unauthorized practice.~~

4 SEC. 14. Section 3751.1 of the Business and Professions
5 Code is repealed.

6 ~~3751.1. (a) Notwithstanding the time periods set forth in~~
7 ~~subdivision (a) of Section 3751, the holder of a conditional or~~
8 ~~probationary license issued prior to February 1, 2002, on grounds~~
9 ~~that did not include a violation of subdivision (e), (f), (h), (i), (k),~~
10 ~~(l), (n), (o), or (p) of Section 3750, a violation of Section 3752.6,~~
11 ~~or a violation of Section 3755, may submit a petition to terminate~~
12 ~~probation prior to December 31, 2003.~~

13 ~~(b) This section shall be repealed on January 1, 2004, unless a~~
14 ~~later enacted statute, that becomes operative on or before January~~
15 ~~1, 2004, deletes or extends that date.~~

16 SEC. 15. Section 3760 of the Business and Professions Code
17 is amended to read:

18 3760. (a) Except as otherwise provided in this chapter, no
19 person shall engage in the practice of respiratory care, respiratory
20 therapy, or inhalation therapy. For purposes of this section,
21 engaging in the practice of respiratory care includes, but is not
22 limited to, representations by a person whether through verbal
23 claim, sign, advertisement, letterhead, business card, or other
24 representation that he or she is able to perform any respiratory care
25 service, or performance of any respiratory care service.

26 (b) No person who is unlicensed or whose respiratory care
27 practitioner license has been revoked or suspended, *or whose*
28 *license is not valid* shall engage in the practice of respiratory care
29 during the period of suspension or revocation, even though the
30 person may continue to hold a certificate or registration issued by
31 a private certifying entity.

32 (c) Except as otherwise provided in this chapter, no person may
33 represent himself or herself to be a respiratory care practitioner, a
34 respiratory therapist, a respiratory care technician, or an inhalation
35 therapist, or use the abbreviation or letters "R.C.P.," "R.P.,"
36 "R.T.," or "I.T.," or use any modifications or derivatives of those
37 abbreviations or letters without a current and valid license issued
38 under this chapter.

39 (d) No respiratory care practitioner applicant shall begin
40 practice as a "respiratory care practitioner applicant" pursuant to

1 Section 3739 until the applicant meets the applicable requirements
2 of this chapter and obtains a valid work permit.

3 SEC. 16. Section 3761 of the Business and Professions Code
4 is amended to read:

5 3761. (a) No person may ~~represent himself or herself to be a~~
6 ~~respiratory care practitioner~~ *practice respiratory care in this state,*
7 without a *valid* license granted under this chapter, except as
8 otherwise provided in this chapter.

9 (b) No person or corporation shall knowingly employ a person
10 who holds himself or herself out to be a respiratory care
11 practitioner without a *valid* license granted under this chapter,
12 except as otherwise provided in this chapter.

13 SEC. 17. Section 3775 of the Business and Professions Code
14 is amended to read:

15 3775. The amount of fees provided in connection with
16 licenses or approvals for the practice of respiratory care shall be
17 as follows:

18 (a) The application fee shall be established by the board at not
19 more than three hundred dollars (\$300). The application fee for the
20 applicant under subdivision ~~(b)~~ (c) of Section 3740 shall be
21 established by the board at not more than three hundred fifty
22 dollars (\$350).

23 (b) The fees for any examination or reexamination required by
24 the board shall be the actual cost to the board for developing,
25 purchasing, grading, and administering each examination or
26 reexamination.

27 (c) The initial license fee for a respiratory care practitioner
28 shall be no more than three hundred dollars (\$300).

29 (d) For any license term beginning on or after January 1, 1999,
30 the renewal fee shall be established at two hundred thirty dollars
31 (\$230). The board may increase the renewal fee, by regulation, to
32 an amount not to exceed three hundred thirty dollars (\$330). The
33 board shall fix the renewal fee so that, together with the estimated
34 amount from revenue, the reserve balance in the board's
35 contingent fund shall be equal to approximately six months of
36 annual authorized expenditures. If the estimated reserve balance
37 in the board's contingent fund will be greater than six months, the
38 board shall reduce the renewal fee. In no case shall the fee in any
39 year be more than 10 percent greater than the amount of the fee in
40 the preceding year.

(e) The delinquency fee shall be established by the board at not more than the following amounts:

(1) If the license is renewed not more than two years from the date of its expiration, the delinquency fee shall be 100 percent of the renewal fee in effect at the time of renewal.

(2) If the license is renewed after two years, but not more than three years, from the date of expiration of the license, the delinquency fee shall be 200 percent of the renewal fee in effect at the time of renewal.

(f) The duplicate license fee shall ~~be~~ *not exceed* seventy-five dollars (\$75).

(g) The endorsement fee shall ~~be~~ *not exceed* one hundred dollars (\$100).

(h) Costs incurred by the board in order to obtain and review documents or information related to the criminal history of, rehabilitation of, disciplinary actions taken by another state agency against, or acts of negligence in the practice of respiratory care by, an applicant or licensee, shall be paid by the applicant or licensee before a license will be issued or a subsequent renewal processed.

(i) Fees paid in any form other than check, money order, or cashier's check shall be subject to an additional processing charge equal to the board's actual processing costs.

(j) Fees incurred by the board to process return mail shall be paid by the applicant or licensee for whom the charges were incurred.

(k) Notwithstanding any other provision of this chapter, the board, in its discretion, may reduce the amount of any fee otherwise prescribed by this section.

SEC. 18. Section 3775.2 of the Business and Professions Code is amended to read:

3775.2. (a) The fee for approval of providers of continuing education shall be established by the board at not more than the following:

(1) The initial application approval fee shall ~~be~~ *not exceed* seven hundred dollars (\$700).

(2) The annual renewal fee shall ~~be~~ *not exceed* three hundred fifty dollars (\$350).

1 (3) The fee for rereview or additional approval of any
2 amendments to existing providers shall ~~be~~ *not exceed* three
3 hundred fifty dollars (\$350).

4 (b) The delinquency fee for the annual renewal fee shall be 50
5 percent of the annual renewal fee.

6 SEC. 19. Section 3775.6 is added to the Business and
7 Professions Code, to read:

8 3775.6. (a) A licensee may request that his or her license be
9 placed in a “retired” status at any time, provided the license has
10 not been cancelled, and any outstanding fines, cost recovery, and
11 monthly probation monitoring costs are paid in full.

12 (b) An individual with retired status is not subject to any
13 renewal or reporting requirements.

14 (c) Once an individual is placed on retired status, all privileges
15 to practice respiratory care are rescinded. If an individual practices
16 with a “retired” license, the individual will be subject to discipline
17 as prescribed by this chapter for the unlicensed practice of
18 respiratory care.

19 SEC. 20. Section 3777 of the Business and Professions Code
20 is amended to read:

21 3777. Where an applicant is issued a license to practice
22 respiratory care, and it is later discovered that all required fees
23 have not been paid, *approved continuing education is not reported*
24 *or completed, employer information is not reported, or any other*
25 *requirements as prescribed by this chapter are not met*, the license
26 shall not be renewed or reinstated unless all past and current
27 required fees have been paid *and all requirements are met*.

28 SEC. 21. Section 3778 is added to the Business and
29 Professions Code, to read:

30 3778. Notwithstanding any other provision of law, the board
31 may contract with a collection service for the purpose of collecting
32 outstanding fees, fines, or cost recovery amounts, and may release
33 personal information, including the birth date, telephone number,
34 and social security number of any applicant or licensee for this
35 purpose. The contractual agreement shall provide that the
36 collection service shall not inappropriately use or release personal
37 information, and shall provide safeguards to ensure that the
38 information is protected from inappropriate disclosure. The
39 contractual agreement shall hold the collection service liable for
40 inappropriate use or disclosure of personal information.

1 SEC. 22. Section 4521 of the Business and Professions Code
2 is amended to read:

3 4521. The board may suspend or revoke a license issued under
4 this chapter for any of the following reasons:

5 (a) Unprofessional conduct, which includes but is not limited
6 to any of the following:

7 (1) Incompetence or gross negligence in carrying out usual
8 psychiatric technician functions.

9 (2) A conviction of practicing medicine without a license in
10 violation of Chapter 5 (commencing with Section 2000) of
11 Division 2, the record of conviction being conclusive evidence
12 thereof.

13 (3) The use of advertising relating to psychiatric technician
14 services which violates Section 17500.

15 (4) Obtain or possess in violation of law, or prescribe, or,
16 except as directed by a licensed physician and surgeon, dentist, or
17 podiatrist, administer to himself or herself or furnish or administer
18 to another, any controlled substance as defined in Division 10
19 (commencing with Section 11000) of the Health and Safety Code
20 or any dangerous drug as defined in ~~Article 8 (commencing with~~
21 ~~Section 4210) of Chapter 9 of Division 2~~ Section 4022.

22 (5) Use any controlled substance as defined in Division 10
23 (commencing with Section 11000) of the Health and Safety Code,
24 or any dangerous drug as defined in ~~Article 8 (commencing with~~
25 ~~Section 4210) of Chapter 9 of Division 2~~ Section 4022, or
26 alcoholic beverages, to an extent or in a manner dangerous or
27 injurious to himself or herself, any other person, or the public or
28 to the extent that the use impairs his or her ability to conduct with
29 safety to the public the practice authorized by his or her license.

30 (6) Be convicted of a criminal offense involving the
31 falsification of records concerning prescription, possession, or
32 consumption of any of the substances described in paragraphs (4)
33 and (5), in which event the record of the conviction is conclusive
34 evidence of the conviction. The board may inquire into the
35 circumstances surrounding the commission of the crime in order
36 to fix the degree of discipline.

37 (7) Be committed or confined by a court of competent
38 jurisdiction for intemperate use of or addiction to the use of any of
39 the substances described in paragraphs (4) and (5), in which event

1 the court order of commitment or confinement is prima facie
2 evidence of the commitment or confinement.

3 (8) Falsify, or make grossly incorrect, grossly inconsistent, or
4 unintelligible entries in any hospital, patient, or other record
5 pertaining to the substances described in paragraph (4).

6 (b) Procuring a certificate or license by fraud,
7 misrepresentation, or mistake.

8 (c) Procuring, or aiding, or abetting, or attempting, or agreeing
9 or offering to procure or assist at a criminal abortion.

10 (d) Violating or attempting to violate, directly or indirectly, or
11 assisting in or abetting the violation of, or conspiring to violate any
12 provision or terms of this chapter.

13 (e) Giving any false statement or information in connection
14 with an application.

15 (f) Conviction of any offense substantially related to the
16 qualifications, functions, and duties of a psychiatric technician, in
17 which event the record of the conviction shall be conclusive
18 evidence of the conviction. The board may inquire into the
19 circumstances surrounding the commission of the crime in order
20 to fix the degree of discipline.

21 (g) Impersonating any applicant or acting as proxy for an
22 applicant in any examination required by this chapter.

23 (h) Impersonating another practitioner, or permitting another
24 person to use his or her certificate or license.

25 (i) The use of excessive force upon or the mistreatment or abuse
26 of any patient.

27 (j) Aiding or assisting, or agreeing to aid or assist any person
28 or persons, whether a licensed physician or not, in the performance
29 of or arranging for a violation of any of the provisions of Article
30 12 (commencing with Section 2220) of Chapter 5 of Division 2.

31 (k) Failure to maintain confidentiality of patient medical
32 information, except as disclosure is otherwise permitted or
33 required by law.

34 (l) The commission of any act punishable as a sexually related
35 crime, if that act is substantially related to the duties and functions
36 of the licensee.

37 (m) The commission of any act involving dishonesty, when
38 that action is substantially related to the duties and functions of the
39 licensee.



(n) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Dental Examiners, and the Board of Registered Nursing, to encourage appropriate consistency in the implementation of this section.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.